H. L. 461. Another example is the rule of parliamentary law that a direct pecuniary interest in a question disqualifies a member of the legislature from voting thereon. CUSHING, LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES, 9 ed., § 1844. Accordingly, it has been held that a vote cast by a member of a municipal deliberative body under such circumstances is void. *Oconto Co.* v. *Hall*, 47 Wis. 208. It is said in the principal case that the rule does not apply when the question before the body is legislative as distinguished from judicial. But there seems no reason why the general principle should be so limited, provided the interest of the member is in fact directly adverse to his duty as a representative. It may well be argued that such an adverse interest is not shown in the principal case, and on this ground the decision may be justified. *Steckert* v. *City of East Saginaw*, 22 Mich. 104; *City of Topeka* v. *Huntoon*, 46 Kan. 634.

POWERS — RELEASE OF SPECIAL POWERS IN GROSS. — Under a marriage settlement a fund of £60,000 was given in trust to A for life, and after her decease to her issue then living as she might by will appoint, and in default of appointment to her children in equal shares. By deed A covenanted with one of her children not so to exercise her power of appointment as to reduce his share to less than £7,000, nor so as to postpone the vesting in possession of such share beyond the period of her death. The provisions of the will were inconsistent with this agreement. *Held*, that the covenantee is entitled to £7,000 in possession. *In re Evered*, 54 Sol. J. 84 (Eng., Ch. D., Nov. 8, 1909). See NOTES, p. 394.

RULE AGAINST PERPETUITIES — INTERESTS SUBJECT TO RULE — CONTRACT RAISING EQUITABLE RIGHT IN PROPERTY. — In a contract for the sale of land to the plaintiff, entered into in 1847, it was stipulated that the vendor, his heirs, appointees, and assigns, might at any time thereafter be at liberty to build a tunnel under the property sold. The plaintiff sought to restrain an assignee of the vendor from taking advantage of this stipulation. *Held*, that as the rule against perpetuities is not applicable, the contract is still valid and the injunction must be refused. *South Eastern Railway Co.* v. *Associated Portland Cement Manufacturers, Ltd.*, [1910] 1 Ch. 12.

It was formerly held that a contingent equitable right in land, arising by virtue of contract, was not subject to the rule against perpetuities, although it might not vest within the prescribed period. *Birmingham Canal Co.* v. *Cartwright*, 11 Ch. D. 421. But a later English case, expressly overruling these earlier decisions, held that a covenant by the owner of land, giving an indefinite option to purchase, created an interest which was void by the rule and could not be enforced against a subsequent owner of the land with notice of the covenant. *London & South Western Railway Co.* v. *Gomm*, 20 Ch. D. 562. In the principal case, the result is reached on the theory that the doctrine of the case last quoted applies only to subsequent owners, and does not prevent the enforcement of the agreement against the original covenantor. This reasoning seems erroneous. The applicability of the rule against perpetuities is determined once for all at the time of the creation of the interest, and should not be affected by later events. See LEWIS, LAW OF PERPETUITIES, 171. Certainly the distinction suggested has not occurred to American courts in dealing with similar questions. *Winsor* v. *Mills*, 157 Mass. 362; *Starcher Brothers* v. *Duty*, 61 W. Va. 373.

TELEGRAPH AND TELEPHONE COMPANIES — DAMAGES FOR ERROR, DELAY, OR NON-DELIVERY — CIPHER MESSAGE. — Owing to a telegraph company's delay in delivering a cipher telegram, the plaintiff failed to consummate a sale. *Held*, that the plaintiff cannot recover damages for the loss of the sale, without showing that the company knew the meaning or importance of the message. *Postal Telegraph-Cable Co.* v. *Louisville Cotton Oil Co.*, 122 S. W. 852 (Ky.).

Cases refusing recovery for improper transmission of a cipher message, of whose meaning the telegraph company has no outside information, are the result

of two lines of thought. The first considers damages like those sought in the principal case to be consequential; and so properly denies recovery unless the message itself discloses the details of the transaction sufficiently to put the consequences reasonably within the contemplation of the sending agent. *Primrose* v. *Western Union Telegraph Co.*, 154 U. S. 1; *Sanders* v. *Stuart*, 1 C. P. D. 326. *Cf. Hadley* v. *Baxendale*, 9 Exch. 341. Cases of the second class more properly regard the loss of the value of the information that should have been delivered as direct damages, but require, with varying degrees of exactitude, that the transaction be so disclosed that the damages may be said to result naturally from the breach of that kind of a contract. *True* v. *International Telegraph Co.*, 60 Me. 9; *Fererro* v. *Western Union Telegraph Co.*, 9 App. D. C. 455. *Cf. Cutting* v. *Grand Trunk Railway Co.*, 13 Allen (Mass.) 381. It is submitted, that this requirement is satisfied if the message shows itself to be of business importance, and that the few cases opposed to the principal case are correct in holding that a cipher message reasonably conveys such information. *Western Union Telegraph Co.* v. *Way*, 83 Ala. 542. *Contra, Candee* v. *Western Union Telegraph Co.*, 34 Wis. 471.

WILLS — TESTAMENTARY CAPACITY — DECLARATIONS OF ATTESTING WITNESS. — The contestants of a will offered evidence of declarations by a deceased attesting witness that the testator was of unsound mind when the will was made. *Held*, that the evidence is inadmissible. *Speer* v. *Speer*, 123 N. W. 176 (Ia.).

When evidence of a declaration is admitted under some exception to the hearsay rule, it may be shown by way of impeachment that the declarant made contradictory statements. *Carver* v. *United States*, 164 U. S. 694. By the weight of authority, proof of a deceased subscribing witness's signature is proof of a declaration that the document was properly executed. *Neely* v. *Neely*, 17 Pa. St. 227; *Townsend* v. *Townsend*, 9 Gill (Md.) 506. But a very respectable minority, including Baron Parke, treat such evidence merely as direct proof that the witness put his name there in a particular manner. *Stobart* v. *Dryden*, 1 M. & W. 615. Where, as in the principal case, this latter view is adopted, there is no declaration to be impeached by contradictory statements. But even if the attestation is a declaration, it is submitted that it does not declare that the testator was sane. See *Baxter* v. *Abbott*, 7 Gray (Mass.) 71. *Contra, Stevens* v. *Leonard*, 154 Ind. 67. The average man would probably be willing to witness a friend's will, although he did not believe that the friend had testamentary capacity. If, therefore, there was no declaration that the testator was sane, the evidence offered could not go in as impeaching such a declaration.

BOOK REVIEWS.

THE LEGISLATION OF THE EMPIRE. A Survey of the Legislative Enactments of the British Dominions from 1898 to 1907. Edited by C. E. A. Bedwell. In four volumes. London: Butterworth and Company; Philadelphia: Cromarty Law Book Company. 1909. pp. xxxv, 545; x, 482; x, 528; 231.

This valuable and interesting index to the legislation of Great Britain and of her colonies is the sort of book that is at once the despair and the envy of the American publicist. With all the extravagance at Washington, no money has ever been found to spend in compilations far more necessary of the statute law of the forty-six states, three territories, and the insular possessions of our Union. Such works can never have a popular sale large enough to justify the very great expense of publication. If the reviewer may be pardoned for alluding to his own digest, "American Statute Law," published in 1886, he would call attention to